

Memorandum

MIAMI-DADE
COUNTY

Date: January 24, 2012

To: Honorable Chairman Joe A. Martinez and Members,
Board of County Commissioners

Agenda Item No. 8(P)(2)

From: Carlos A. Gimenez
Mayor

Subject: Agreement between the Village of Palmetto Bay and Miami-Dade County for the
Provision of Stormwater Billing Charges by Miami-Dade Water and Sewer Department

RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) approve and adopt the attached resolution authorizing the execution of an agreement between Miami-Dade County and the Village of Palmetto Bay providing for the billing of the Village's stormwater charges by the Miami-Dade Water and Sewer Department (WASD).

SCOPE OF AGENDA ITEM

The agenda item is for billing services for the Village of Palmetto Bay, Commission District 8, Commissioner Lynda Bell.

FISCAL IMPACT/FUNDING SOURCE

There is a positive fiscal impact to the County. Pursuant to Resolution R-530-10 adopted by the Board on May 4, 2010: (1) the nature of the commitment is an agreement between the County and the Village of Palmetto Bay for the County to provide a billing service. WASD will receive \$.81 per bill from the Village of Palmetto Bay for the service. The revenue received from the Village for this service for Fiscal Year 2010-11 was \$27,285.81. The total revenue received by WASD in Fiscal Year 2010-11 for the provision of identical services to other participating municipalities was \$581,074.93; (2) a funding source is not required because the County is the recipient of the revenue from participating municipalities; and (3) there is no negative fiscal impact to the County's current budget or to future annual budgets.

TRACK RECORD/MONITOR

The WASD's Chief of Intergovernmental Affairs Section will monitor this agreement.

BACKGROUND

On November 27, 2006, Miami-Dade County and the Village of Palmetto Bay entered into a five (5) year agreement providing for the billing of stormwater charges by WASD for the Village. WASD has been billing a stormwater utility service charge for the Village simultaneously with the issuance of WASD's bills for water and sewer service. WASD also bills, collects and retains the Village of Palmetto Bay's pro-rata share of the debt service on the County's 1999 and 2004 Stormwater Utility Bonds and remits the balance of the stormwater charges to the Village in accordance with rates established and approved by the Village. WASD and the Village of Palmetto Bay have negotiated the terms of the agreement, which provide that WASD will bill, collect and remit the stormwater utility charges to the Village, in accordance with rates established and approved by the Village for a fee of \$.81 per bill.

WASD's water and sewer bills will identify the stormwater charges as those of the Village of Palmetto Bay and will provide a Village telephone number for customers to call if they have questions.

This new agreement has a ten-year term and may be extended by mutual consent of WASD and the Village of Palmetto Bay but cannot be terminated without a County approved alternate method of satisfaction of any outstanding balance of the Village's pro-rata share of the debt service on the 1999 and 2004 Stormwater Utility Bonds.

WASD currently performs similar billing services for the Cities of Doral, Coral Gables, Miami, Miami Gardens, South Miami and Sweetwater, the Towns of Cutler Bay and Miami Lakes, and the Villages of El Portal and Key Biscayne.



County Manager/Deputy Mayor

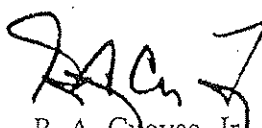


MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: January 24, 2012


FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 8(P)(2)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor

Agenda Item No. 8(P)(2)

Veto _____

1-24-12

Override _____

RESOLUTION NO. _____

RESOLUTION APPROVING A STORMWATER BILLING AGREEMENT WITH THE VILLAGE OF PALMETTO BAY FOR THE BILLING OF STORMWATER UTILITY CHARGES BY THE MIAMI-DADE WATER AND SEWER DEPARTMENT; AND AUTHORIZING THE COUNTY MAYOR OR MAYOR'S DESIGNEE TO EXECUTE SAME AND TO EXERCISE THE PROVISIONS CONTAINED THEREIN

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby approves a stormwater billing agreement with the Village of Palmetto Bay for the billing of stormwater utility charges by Miami-Dade Water and Sewer Department, in substantially the form attached hereto and made a part hereof; and authorizes the County Mayor or Mayor's designee to execute same for and on behalf of Miami-Dade County, Florida and to exercise the provisions contained therein.

The foregoing resolution was offered by Commissioner
who moved its adoption. The motion was seconded by Commissioner
and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman	
Audrey M. Edmonson, Vice Chairwoman	
Bruno A. Barreiro	Lynda Bell
Esteban L. Bovo, Jr.	Jose "Pepe" Diaz
Sally A. Heyman	Barbara J. Jordan
Jean Monestime	Dennis C. Moss
Rebeca Sosa	Sen. Javier D. Souto
Xavier L. Suarez	

The Chairperson thereupon declared the resolution duly passed and adopted this 24th day of January, 2012. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

SED

Sarah E. Davis

AGREEMENT FOR THE BILLING OF
STORMWATER CHARGES
BETWEEN
MIAMI-DADE COUNTY
AND
VILLAGE OF PALMETTO BAY

THIS AGREEMENT, entered into this ___ day of _____, 2011, by and between the VILLAGE OF PALMETTO BAY, FLORIDA, a municipal corporation of the State of Florida (the "VILLAGE"), and MIAMI-DADE COUNTY, a political subdivision of the State of Florida (the "COUNTY").

W I T N E S S E T H:

WHEREAS, the COUNTY, through its Miami-Dade Water and Sewer Department (the "Department"), operates the water and sewer utility systems within the VILLAGE; and

WHEREAS, effective October 1, 2006, the VILLAGE has been exclusively responsible to operate and maintain the stormwater utility system within the VILLAGE boundaries, and

WHEREAS, on November 27, 2006, the COUNTY and the VILLAGE entered into an agreement providing for the billing of stormwater charges by the COUNTY for the VILLAGE and has been administering, billing and collecting a stormwater utility service charge simultaneously with the issuance of the COUNTY's bills for water and sewer service, and

WHEREAS, the VILLAGE desires the COUNTY to continue to administer, bill and collect the stormwater utility service charge on behalf of the VILLAGE, and

WHEREAS, the COUNTY has agreed to continue to administer, bill and collect the stormwater utility service charge on behalf of the VILLAGE, and

WHEREAS, the COUNTY needs to continue to retain, from the stormwater utility service charges it collects for the VILLAGE, on a monthly basis, the VILLAGE's pro-rata share of debt service on the Stormwater Utility Revenue Bonds, Series 1999 and 2004 (the "Stormwater Bonds") outstanding since the Exemption Date of the Village from the Miami-Dade County Stormwater Utility;

NOW, THEREFORE, in consideration of the premises and mutual covenants and agreements set forth herein, it is agreed:

Section 1. The VILLAGE, jointly with the COUNTY, will designate and cause to be identified from time to time the water and sewer service accounts of the Department which thereafter, under the rules and regulations of the VILLAGE, shall be billed for stormwater utility service charges. The VILLAGE shall designate the rate classifications applicable thereto in writing in a format acceptable to the COUNTY. The COUNTY shall act thereon until such designations and classifications are changed in writing by the VILLAGE. The VILLAGE understands and accepts that the COUNTY shall consider the person or persons whose names appear on the COUNTY's water and sewer service account as the persons responsible for the stormwater utility service charges at the location involved.

Section 2. The VILLAGE shall deliver to the COUNTY, a minimum of thirty (30) calendar days in advance of the effective date, its schedule of rates and any revisions of such schedule of rates by furnishing to the Department's Assistant Director of Finance a certified copy of the ordinance or other action of the VILLAGE promulgating said revised schedule of rates. Until the COUNTY is so furnished with a revised schedule, the COUNTY shall act upon the prior delivered schedule. The stormwater utility service charge shall be prorated in accordance with the revised schedule of rates. No security deposits shall be collected by the COUNTY nor shall delinquent penalty charges be imposed by the COUNTY on the stormwater utility charge.

Section 3. The COUNTY agrees, during the COUNTY's regular and periodic billing procedures, to cause to be billed and collected from each water and sewer customer under said accounts, as an added and designated separate item on the bill, the stormwater utility service charge, according to the schedule of rates established by the VILLAGE for such customer. During the term of this Agreement, this shall be the exclusive method for billing stormwater utility service charges by the County; no separate bills shall be issued, except for those bills that may be generated by the VILLAGE. The VILLAGE authorizes and empowers the COUNTY to render such billing for the VILLAGE'S account and on the payment thereof to give receipt and acquittance therefore, either by endorsement of payment upon such billings or by separate receipt. Upon the initial billing by the COUNTY to each user of stormwater utility service and at any time during the term of this agreement, as deemed necessary by the COUNTY or the VILLAGE, the VILLAGE shall at its sole cost and expense and independent of this Agreement, advise such user of the method and arrangement between the VILLAGE and the COUNTY for the billing and collection of said charge by the COUNTY for and on behalf of the VILLAGE as the VILLAGE'S agent. Furthermore, the VILLAGE shall notify its stormwater utility users of future rate increases. The COUNTY shall not be responsible for the notification of new owners, occupants or tenants that there is a stormwater utility service charge.

Section 4. The COUNTY agrees to observe the same diligence, policy and procedure in the billing and collection of stormwater utility service accounts as is used by the COUNTY in billing and collecting its water service accounts, except that the COUNTY shall not terminate water and/or sewer service for non-payment of stormwater utility service charges, except when account balances exceed an amount to be determined by the Department, nor shall it institute or maintain suits at law for collection of stormwater utility service charges. The COUNTY may provide water and sewer service to customers irrespective of said customer's failure to pay the applicable stormwater utility charge. The COUNTY shall not be responsible for the billing of accounts that are inactive. The COUNTY shall not file any liens on property for the collection of the stormwater utility charges. Legal actions for non-payment of stormwater utility charges shall be the sole responsibility of the VILLAGE.

Section 5. The COUNTY will keep correct and proper books of accounts, showing monthly gross billings of stormwater utility service charges, and shall provide to the VILLAGE a monthly statement in writing, showing the net amount owed the VILLAGE by the COUNTY for the month covered by such statement. The COUNTY shall provide this statement and the remittance due the VILLAGE within sixty (60) days of the end of each monthly period. Based on such statement, the COUNTY shall make payment to the VILLAGE of the amount due, less the COUNTY's compensation for the billing and collection of said charges and less any other payments or deductions as hereinafter specifically provided in Sections 6, 9 and 10 of this Agreement. Furthermore, the COUNTY'S billing system may also be capable of monthly billing to all water and sewer customers in the future.

The VILLAGE agrees that the COUNTY shall remit monthly payments based on the collection of stormwater utility service charges, when the COUNTY's billings system is capable of this method of remittance on all accounts.

Section 6. Adjustments for uncollected stormwater billings shall be made on a regular basis, at least annually or when write-offs occur, as a deduction provided in Section 5.

Section 7. Upon written request from the VILLAGE, the COUNTY shall make available for inspection or audit by the VILLAGE and its representatives at any reasonable time all of its records pertaining to the COUNTY's actions under this Agreement as agent for the VILLAGE and shall also furnish to the VILLAGE such information concerning the administration of this Agreement as the VILLAGE may reasonably request, including information as to delinquent stormwater utility charges and accounts not currently being billed. Should the VILLAGE, in any audit of the COUNTY's records, find a discrepancy between the amount of funds remitted to the VILLAGE and the actual billing and collection by the COUNTY, the COUNTY shall within 30 days of receipt of written notification from the VILLAGE, remit to the VILLAGE the sums owed.

Section 8. Both the VILLAGE and the COUNTY recognize that in the billing and collection of stormwater utility service charges involving thousands of customers, numerous situations arise that require discretion. The VILLAGE agrees with the COUNTY that the COUNTY may use its best judgment in such instances. The COUNTY's method or manner of handling such situations shall not be considered as negligence under or independent of the terms and conditions of this Agreement or as a breach thereof, and the COUNTY shall not be liable or responsible to the VILLAGE for any loss in stormwater utility service charge revenues by reason of the COUNTY's discretionary handling of such situations. Specifically, the COUNTY shall have the right to remove or adjust the stormwater utility service charge from a customer's bill if the customer provides proof acceptable to the COUNTY that he or she was not the owner, occupant or tenant of the property on the date that the stormwater utility service charge was applied. Except as otherwise specified in this Section, any adjustments to accounts assessed a stormwater utility service charge shall be initiated solely by the VILLAGE and provided to the COUNTY in writing.

Section 9. The VILLAGE agrees to pay to the COUNTY, and the COUNTY shall receive from the VILLAGE, by means of deduction from payments for monthly billings, compensation determined as follows:

- A. For the period from the effective date of this agreement, until the agreement is modified pursuant to Section 11 hereinafter, a charge in the amount of eighty-one cents (\$0.81) per bill for all accounts to be charged the VILLAGE'S stormwater utility service charge; and
- B. For all costs and expenses incurred and paid by the COUNTY during the preceding month in defending legal actions brought against the COUNTY by any person, firm or corporation, excluding the VILLAGE, involving billing or collection of stormwater utility service charges on behalf of the VILLAGE, or involving the COUNTY's administration of the terms and conditions of this Agreement.

The COUNTY shall notify the VILLAGE in writing of any legal claims filed against the COUNTY pertaining to the COUNTY's billing and collection of the VILLAGE'S stormwater fees within thirty (30) working days of receipt of any claim. The VILLAGE shall have the option to defend the COUNTY on any

such claims and settle or compromise the same unless such a claim involves employee dishonesty or theft.

Section 10. The VILLAGE agrees to pay to the COUNTY, and the COUNTY shall receive from the VILLAGE, by means of deduction from payments for monthly billings of stormwater utility service charges collected by the COUNTY for the VILLAGE, the VILLAGE'S pro-rata share of debt service on (i) the Stormwater Bonds until they are paid in full or provision made for their payment pursuant to Article IX of Ordinance No. 98-187, enacted by the Board of County Commissions on December 15, 1998 in accordance with the debt service schedule set forth in Exhibit "A" to this Agreement and (ii) any obligations associated with cost sharing Stormwater Management Projects that may include, but not be limited to, canal dredging, canal maintenance and drainage projects that may be agreed to subsequent to the date of this Agreement for which payment will be based on a mutually agreed fraction. For any payments pursuant to (ii) above, the COUNTY, through its Department of Environmental Resources Management with a copy to be sent to the Department, will inform the VILLAGE thirty (30) calendar days prior to the beginning of each Fiscal Year, of the amount of stormwater utility service charges the County will retain each month in addition to the those retained pursuant to Exhibit "A" to this Agreement. Upon agreement by both the VILLAGE and the COUNTY, Exhibit "A" to this Agreement may be modified to include any additional VILLAGE share of debt service due to future VILLAGE annexations.

Section 11. The COUNTY reserves the right to review and revise the charges provided for in Section 9 (A) hereinabove and the VILLAGE agrees to be bound thereby, provided the COUNTY provides ninety (90) days notice to the VILLAGE of said proposed revised charges.

Section 12. All telephone calls and correspondence from customers regarding the stormwater utility shall be the responsibility of the VILLAGE. The COUNTY shall cause the telephone number for the VILLAGE, as provided by the VILLAGE, to be printed on the COUNTY's regular bill stock.

Section 13. The VILLAGE agrees that the COUNTY shall not be held liable for any damage, delay or other loss that the VILLAGE may experience as a result of the COUNTY's practices in administering this Agreement, unless such loss arises solely as a result of negligence by the COUNTY, its employees or agents.

Section 14. It is understood and agreed between the VILLAGE and the COUNTY that the COUNTY's obligation is limited to billing and collection of stormwater utility service charges as specifically provided for in this Agreement.

Section 15. The VILLAGE shall not allow or permit construction or installation of any connections of stormwater mains that allow stormwater to enter the COUNTY's sanitary sewer system. The VILLAGE agrees to use its best efforts to detect and lawfully disconnect all stormwater connections to the COUNTY's sanitary sewer system within the VILLAGE'S jurisdiction and submit within ninety (90) days of the execution of this Agreement a timetable for the elimination of such stormwater connections which is reasonably acceptable to the COUNTY.

Section 16. This Agreement shall be binding upon the respective successors and assigns of both the VILLAGE and the COUNTY.

Section 17. All references to the VILLAGE under this Agreement that require direction to the COUNTY shall mean the VILLAGE Manager or his designee. Whenever written notice to the VILLAGE is required, it shall be sent by Certified Mail, Return Receipt Requested, to:

Village of Palmetto Bay
9705 Hibiscus Street
Palmetto Bay, Florida, 33157
(Attention: Village Manager)

Whenever written notice to the COUNTY is required, it shall be sent by Certified Mail,
Return Receipt Requested to:

Miami-Dade County
Miami-Dade Water and Sewer Department
3071 S. W. 38th Avenue
Miami, Florida 33146
(Attention: Assistant Director-Finance)

Section 18. This Agreement shall remain in full force and effect for a period of ten (10) years after its date of execution. This Agreement may be extended at that time by written request from the VILLAGE Manager to the Department's Director and mutual agreement by the Department, without which it shall terminate. Notwithstanding the above provisions, this Agreement shall terminate and be cancelled without further writings between the VILLAGE and the COUNTY upon either party providing ninety (90) days notice in writing to the other party so advising the other party.

Notwithstanding the provisions of this paragraph, should the COUNTY fail to timely bill the VILLAGE'S customers in accordance with the agreed upon billing cycles and rates or fail to remit payment to the VILLAGE in the timeframes specified in Section 5, the VILLAGE may terminate this Agreement on thirty (30) days written notice to the COUNTY.

Notwithstanding the above, this Agreement may not be terminated at any time without a COUNTY approved alternate method of payment by the VILLAGE to the COUNTY of the VILLAGE'S outstanding debt service obligation for the Stormwater Bonds.

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IN WITNESS WHEREOF, the parties hereto have executed these presents as of the day and year first above written.

MIAMI-DADE COUNTY

ATTEST:

BY: _____
Clerk

BY: _____
County Mayor

ATTEST:

VILLAGE OF PALMETTO BAY

BY: Miguel F. Alexander
Village Clerk

BY: [Signature]
Village Manager

Approved as to form and legal
sufficiency:

Approved as to form and legal
sufficiency:

Sandra Equieto Davis
Assistant County Attorney

[Signature]
Attorney for Village of Palmetto Bay

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EXHIBIT A
DEBT SERVICE SCHEDULE

Village of Palmetto Bay
Stormwater Utility Revenue Bonds, Series 1999 and 2004

	2006 ERU
SWU SvcArea only	782,183
Palmetto Bay	13,837
SWU SvcArea + PB	796,020
Palmetto Bay %	1.74%

Stormwater Utility Bond Debt Service

Fiscal Year Ending Sept 30	1999 BOND MDC P&I	Palmetto Bay 1.74%	2004 BOND MDC P&I	Palmetto Bay 1.74%	Palmetto Bay Annual Total	Palmetto Bay Monthly Debt
2007	\$2,900,088	\$50,462	\$4,721,305	\$82,151	\$132,612	\$11,051
2008	\$2,899,288	\$50,448	\$4,722,205	\$82,166	\$132,614	\$11,051
2009	\$2,900,828	\$50,474	\$4,716,755	\$82,072	\$132,546	\$11,045
2010	\$2,898,765	\$50,439	\$4,720,105	\$82,130	\$132,568	\$11,047
2011	\$2,902,275	\$50,500	\$4,716,955	\$82,075	\$132,575	\$11,048
2012	\$2,901,495	\$50,486	\$4,719,155	\$82,113	\$132,599	\$11,050
2013	\$2,901,295	\$50,483	\$4,717,890	\$82,091	\$132,574	\$11,048
2014	\$2,901,315	\$50,483	\$4,721,290	\$82,150	\$132,633	\$11,053
2015	\$2,901,180	\$50,481	\$4,718,200	\$82,097	\$132,577	\$11,048
2016	\$2,900,500	\$50,469	\$4,716,450	\$82,066	\$132,535	\$11,045
2017	\$2,902,000	\$50,495	\$4,716,950	\$82,075	\$132,570	\$11,047
2018	\$2,898,750	\$50,438	\$4,722,450	\$82,171	\$132,609	\$11,051
2019	\$2,900,750	\$50,473	\$4,717,450	\$82,084	\$132,557	\$11,046
2020	\$2,897,500	\$50,417	\$4,722,200	\$82,166	\$132,583	\$11,049
2021	\$2,899,000	\$50,443	\$4,720,950	\$82,145	\$132,587	\$11,049
2022	\$2,899,750	\$50,456	\$4,718,700	\$82,105	\$132,561	\$11,047
2023	\$2,899,500	\$50,451	\$4,720,200	\$82,131	\$132,583	\$11,049
2024	\$2,898,000	\$50,425	\$4,719,950	\$82,127	\$132,552	\$11,046
2025			\$7,617,700	\$132,548	\$132,548	\$11,046
2026			\$7,618,200	\$132,557	\$132,557	\$11,046
2027			\$7,618,700	\$132,565	\$132,565	\$11,047
2028			\$7,618,450	\$132,561	\$132,561	\$11,047
2029			\$7,616,700	\$132,531	\$132,531	\$11,044

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